

**Before the
Federal Communications Commission
Washington, DC**

In the Matter of:)	
)	
Request for Review of the Decision of the)	
Universal Service Administrator by)	CC Docket No. 02-6
)	
City Springs Elementary)	SLD File No.:752526
BEN 23622)	
)	
Schools and Libraries Universal Service)	
Support Mechanism)	

REQUEST FOR REVIEW AND WAIVER

INTRODUCTION

Section 54.719(c) of the Commission’s rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (“USAC”) may seek review from the Commission. City Springs Elementary (“school”) hereby appeals the current action taken by USAC in the following case.

BACKGROUND

On April 12, 2011 USAC issued a FCDL (Attached as Exhibit A), denying funding to City Springs Elementary for the school’s request for discounts on web hosting services because the school, according to USAC, did not follow the evaluation process correctly. More specifically, the school did not include “raw scores” for each assessment criteria for service provider, Friedman Computer Solutions (“FCS”). USAC further asserts that City Springs Elementary did not use price as the highest weighted factor in their service provider assessment. The school disagrees with both of USAC’s declarations to deny funding for web hosting services.

USAC has erroneously reached this decision by ignoring the scoring of each of the other service providers evaluated. Due to poor service provided by FCS during previous funding years; the school scored the service provider “1” in the assessment criteria of Prior Experience/Referral. As the last service provider evaluated, because FCS scored so low in Prior Experience, it was impossible for this specific service provider to have the winning bid, thus making the scores in the remaining categories moot.

FACTS

On January 11, 2010, City Springs Elementary posted and certified Form 470 No. 944890000809065 seeking, among other services, web hosting for the school.

During the 28 day waiting period upon the filing of the abovementioned Form 470, City Springs Elementary received web hosting bids from the following service providers: eChalk, Foxbright, NCC, Community School, and FCS.

Upon completion of the mandatory 28 day waiting period, the school evaluated scored the service provider’s bids, using the following evaluation criteria: Price/Charges weighted at 40%, Understanding of Needs weighted at 10%, Prior Experience/Referral weighted at 30%, Personal Qualifications weighted at 10%, and Financial Stability weighted at 10%.

BASIS FOR THE DISTRICT’S APPEAL

A. Though the school did not select the lowest bid, they did select the most cost-effective solution

In the Ysleta Order (FCC 03-313), the FCC states that components “at prices two or three times greater than the prices available from commercial vendors would not be cost effective, absent extenuating circumstances.”

Furthermore, USAC states that applicants can select a higher bid if they can explain any special circumstances that would assist USAC in understanding why the product costs seem higher than those of other comparable bidders. This demonstrates that applicants *do not* have to select the lowest bid in order to remain compliant with the cost-effectiveness guidance.

In the case at hand, the school selected the NCC as the winning bid even though they were the second-lowest bidder. However, one should note that the lowest bid, from FCS, was lower by only \$5.

The second highest bid was not at a price that was two or three time greater than the prices available in the marketplace at that time. Therefore, the provider was a cost-effective solution and was evaluated with price of goods and services receiving the highest weight.

B. Though the lowest bid was not selected, Price/Cost was the highest weighted criteria in the schools service provider evaluation

City Spring's evaluation grid did follow USAC's requirements to weight Price/Cost the highest for each service provider at 40%. The winning bid using the abovementioned criteria was NCC. Although FCS was cheaper by \$5 per year, the service provider's low score in the Prior Experience/Referral category made their overall score much lower than NCC's.

In the Tennessee Order, the Commission determined that a competitive bidding process complies with program rules if price is taken into account during bid selection and the contract is awarded to the most cost-effective bidder. The Commission explained that:

“[A] school should have flexibility to select different levels of service, [...] but when selecting among comparable services, a school should be guided by price in its selection. Even among bids for comparable services, however, this does not mean that the lowest bid must be selected. Price, however,

should be carefully considered at this point to ensure that any considerations between price and technical excellence (or other factors) are reasonable." (Emphasis added)

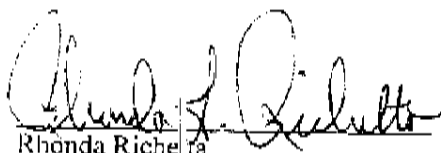
C. The school evaluated all received bids

Though some bids received a low or zero point score in some categories, all bids received by City Springs were fully evaluated and scored after waiting the required 28 days, from the posting of the Form 470. The school scored the evaluated bids using the criteria listed in the facts section of this document. After scoring each bid response/service provider, City Springs added each service provider's score into a total overall (taking cell) on the evaluation spreadsheet (Attached as Exhibit B). Based off of each bid's total scoring, NCC received the highest overall score, and therefore was selected as the winning bid.

SUMMARY

For the reasons given above, City Springs respectfully requests that the Commission reverse the SLD's Funding Commitment Decision and restore funding to FRN 2050411 (Form 471 752526).

Sincerely Submitted,



Rhonda Richey
City Springs Elementary School
Principal
100 S. Caroline Street
Baltimore, MI 21231
410-396-9165

Exhibit A**USAC**

Universal Service Administrative Company

Schools and Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2010: 07/01/2010 - 06/30/2011)

April 12, 2011

Debita Basu
CITY SPRINGS ELEMENTARY SCHOOL
100 S CAROLINE ST
BALTIMORE, MD 21231-1703Re: Form 471 Application Number: 752526
Billed Entity Number (BEN): 23622
Billed Entity FCC RN: 0015149040
Applicant's Form Identifier: CSES2010

Thank you for your Funding Year 2010 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$39,383.82 is "Approved."
- The amount, \$1,624.50 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity Applicant) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant,
 - Applicant BEN and Service Provider Identification Number (SPIN),
 - Form 471 Application Number 752526 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2010," AND

Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West, PO Box 685, Parsippany, NJ 07054-0685
Visit us online at: www.usac.org/sl

- The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT

Billed Entity Name: CITY SPRINGS ELEMENTARY SCHOOL

BEN: 23622

Funding Year: 2010

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 752526

Funding Request Number: 2049898

Funding Status: Funded

Category of Service: Basic Maintenance of Internal Connection

Form 470 Application Number: 944890000809065

SPIN: 143028072

Service Provider Name: Neighborhood Computer Center Corporation Inc.

Contract Number: CSS-NCC2010ER

Billing Account Number: css-ncc2010er

Multiple Billing Account Numbers: N

Service Start Date: 07/01/2010

Service End Date: N/A

Contract Award Date: 02/12/2010

Contract Expiration Date: 06/30/2011

Site Identifier: 23622

Number of Months Recurring Service Provided in Funding Year: 12

Annual Pre-discount Amount for Eligible Recurring Charges: \$21,356.04

Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00

Pre-discount Amount: \$21,356.04

Discount Percentage Approved by the USAC: 90%

Funding Commitment Decision: \$19,220.44 - FRN approved; modified by SLD

Funding Commitment Decision Explanation: MRL: The Contract Award Date was changed from 02/04/2010 to 02/12/2010 to agree with the applicant documentation.

FEDL Date: 04/12/2011

Wave Number: 046

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT

Billed Entity Name: CITY SPRINGS ELEMENTARY SCHOOL

BEN: 23622

Funding Year: 2010

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 752526

Funding Request Number: 2050320

Funding Status: Funded

Category of Service: Internet Access

Form 470 Application Number: 944890000809065

SPIN: 143028012

Service Provider Name: Neighborhood Computer Center Corporation Inc.

Contract Number: NA

Billing Account Number: N/A

Multiple Billing Account Numbers: N

Service Start Date: 07/01/2010

Service End Date: N/A

Contract Award Date: 02/12/2010

Contract Expiration Date: 06/30/2011

Site Identifier: 23622

Number of Months Recurring Service Provided in Funding Year: 12

Annual Pre-discount Amount for Eligible Recurring Charges: \$7,968.60

Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00

Pre-discount Amount: \$7,968.60

Discount Percentage Approved by the USAC: 90%

Funding Commitment Decision: \$7,171.74 - FRN approved; modified by SLD

Funding Commitment Decision Explanation: MRI: The Contract Award Date was changed from 2/4/2010 to 2/12/2010 to agree with the applicant documentation.

ECDL Date: 04/12/2011

Wave Number: 016

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT

Billed Entity Name: CITY SPRINGS ELEMENTARY SCHOOL
BEN: 23622
Funding Year: 2010

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 752526

Funding Request Number: 2050411

Funding Status: Not Funded

Category of Service: Internet Access

Form 470 Application Number: 944890000809065

SPIN: 143028072

Service Provider Name: Neighborhood Computer Center Corporation Inc.

Contract Number: CSS-NCC2010ER

Billing Account Number: N/A

Multiple Billing Account Numbers: N

Service Start Date: 07/01/2010

Service End Date: N/A

Contract Award Date: 02/12/2010

Contract Expiration Date: 06/30/2011

Site Identifier: 23622

Number of Months Recurring Service Provided in Funding Year: 12

Annual Pre-discount Amount for Eligible Recurring Charges: \$.00

Annual Pre-discount Amount for Eligible Non-recurring Charges: \$1,805.00

Pre-discount Amount: \$1,805.00

Discount Percentage Approved by the USAC: 90%

Funding Commitment Decision: \$0.00 - Selective - Bidding Violation

Funding Commitment Decision Explanation: MR1: The Contract Award Date was changed from 02/04/2010 to 02/12/2010 to agree with the applicant documentation. <><><><><>

MR1: Based on the documentation you provided during the Selective Review, ERN 2050411 will be denied because you did not follow the rating scale for each of the selection criteria listed in your E-Rate Bid Assessment Worksheet that was used during your evaluation process. The raw score was evaluated on a scale of 1 to 5: 1 equals worst to 5 equals best. The incumbent provider bid of \$1,800 received no raw score for price and the winning vendor bid of \$1,805 received a raw score of 5 for price.

ECDL Date: 04/12/2011

Wave Number: 0.6

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

FUNDING COMMITMENT REPORT

Billed Entity Name: CITY SPRINGS ELEMENTARY SCHOOL
BEN: 23622
Funding Year: 2010

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 752526

Funding Request Number: 2050442

Funding Status: Funded

Category of Service: Basic Maintenance of Internal Connection

Form 470 Application Number: 944890000809065

SPIN: 143028012

Service Provider Name: Neighborhood Computer Center Corporation Inc.

Contract Number: CSS-NCC2010ER

Billing Account Number: N/A

Multiple Billing Account Numbers: N

Service Start Date: 07/01/2010

Service End Date: N/A

Contract Award Date: 02/12/2010

Contract Expiration Date: 06/30/2011

Site Identifier: 23622

Number of Months Recurring Service Provided in Funding Year: 12

Annual Pre-discount Amount for Eligible Recurring Charges: \$14,435.16

Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00

Pre-discount Amount: \$14,435.16

Discount Percentage Approved by the USAC: 90%

Funding Commitment Decision: \$12,991.64 - ERN approved; modified by SLD

Funding Commitment Decision Explanation: MR1: The Contract Award Date was changed from 02/04/2010 to 02/12/2010 to agree with the applicant documentation. <><><><><>
MR2: The dollars requested were reduced to remove the ineligible basic maintenance for Ethernet VPD 125 VM Server @ 496.01/month. <><><><><>
MR3: The ERN was modified from \$1,698.94/month to \$1,202.93/month to agree with the applicant documentation.

ECDL Date: 04/12/2011

Wave Number: 0.6

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012

Exhibit B

E-Rate Bid Assessment Worksheet

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Funding Year 2010-2011

Project or Service
Description

FRN # 2050411 - Web Hosting

Vendor Scoring (use additional worksheets if necessary)

Selection Criteria	Weight*	eChalk		Foxbright		NCC		Community School		FCS	
		Raw Score**	Weighted Score***	Raw Score	Weighted Score	Raw Score	Weighted Score	Raw Score	Weighted Score	Raw Score	Weighted Score
Prices/Charges	40%	3	1.2	2	0.8	5	2	4	1.6		0
Understanding of Needs	10%	3	0.3	3	0.3	5	0.5	3	0.3		0
Prior Experience/Referral	30%	1	0.3	1	0.3	5	1.5	1	0.3	1	0.3
Personnel Qualifications	10%	3	0.3	3	0.3	5	0.5	3	0.3		0
Financial Stability	10%	3	0.3	3	0.3	5	0.5	3	0.3		0
Other (describe)					0				0		0
Other (describe)					0				0		0
Overall Ranking	100%		2.4		2		5		2.8		0.3

Vendor Selected: NCC

Approved By:

Title:

Date:

Bid Assessment Comments, if needed:

Notes:

* Percentage weights must add up to 100%. Price must be weighted the heaviest.

** Evaluated on a scale of 1 to 5: 1=worst, 5=best.

*** Weight x Raw Score